



**Minutes of
Danvers Conservation Commission
Thursday, November 12, 2015
Danvers Town Hall**

The Danvers Conservation Commission held a public meeting on Thursday, November 12, 2015, at the Danvers Town Hall, Daniel J. Toomey Hearing Room, located at One Sylvan Street, Danvers, MA 01923.

Members present: Jeffrey Cary, Chairman
Bill Glynn, Member
Neal Waldman, Member
Michael Splaine, Vice Chairman

Members absent: Matthew Lallier, Member

Staff present: Kristan Farr, Planner

Mr. Cary opened the Conservation Commission meeting at 7:00 p.m. with a reading of the "Commission Statement."

1. Certificate of Compliance

• **9 Endicott Street (Lot 1); DEP File No. 14-1204**

The applicant, Kevin Murdoch, had placed an above ground pool in his backyard. 10 years after he had installed the pool, he removed it and reseeded the area. At the time, it was required to file. The applicant is now selling the home and needs to follow through with the filing, requiring a Certificate of Compliance.

MOTION: Mr. Splaine makes motion to issue Certificate of Compliance for 9 Endicott Street, DEP File No. 14-1204; Mr. Waldman seconded; all in favor

2. Public Hearing [310 CMR 10.05 (4)] – RDA

• **32R Bow Street; DCC File No. 20105-03**

Proposed duct bank and manholes

John Dick, Hancock Associates, represented Town of Danvers electric division.

Duct work off an existing gravel road to allow electric access to poles. The duct work took place within the road & is nothing more than trenching.

MOTION: Mr. Waldman makes negative determination on 32R Bow Street, DCC File No. 20105-03; Mr. Cary seconded; all in favor

3. Public Hearing - Amendment

• **49 Valley Road; DEP file No. 14-1136**



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John Dick, Hancock Associates, proposing an observation platform at the swamp walk. Will require building another deck on the top of a portion of the existing deck which is now under water due to large amount of snow during the winter season.

MOTION: Mr. Splaine makes motion to approve amendment and grant extension of 1 year as requested by the applicant for 49 Valley Road, DEP File No. 14-1136; Mr. Waldman seconded; all in favor

4. Public Hearing - RDA

- **22 Robin Hill Road – DCC File No. 2015-04**

Greg Hochmuth of Williams & Sparages represented the applicant. The applicant would like to grade the large slope in the back of the home. All the activity is within the buffer zone. They are proposing to grade 12-15 feet of average usable space in the backyard. No mature trees, mostly locus and small shrubs. Closest toe of fill to the wetlands is 39 feet. The applicant has no proposal to build anything such as a pool. They are just requesting more space for the children in the backyard. This grading will not increase the amount of water & will empty into the wetlands a little faster but meets the standards. No maintenance proposed for the slope, no need to mow that area. This will improve the integrity of that area. The erosion control will be trench silt fence.

MOTION: Mr. Splaine makes motion for finding of non-applicability for 22 Robin Hill Road, DCC File No. 2015-04 for proposed grading for erosion control, no mowing and chemicals on the lawn; Mr. Cary seconded; all in favor

5. Continued Public Hearing -NOI

- **17 Florence Street; DEP File No. 14-1258**

Attorney Scarano stated that at the last meeting he and his applicant requested the Commission close the public hearing and issue a decision. Mr. Scarano and the applicant did not consent to the Commission's motion. Mr. Carey state that at the last meeting, the Commission motioned to continue public hearing to November 12, 2015, to gather and research more information. Mr. Scarano objected to any further of public hearing and expects Commission to render a decision at this meeting. Mr. Scarano confirms with Ms. Farr that any information must be submitted 5 days in advance of the meeting. Mr. Carey pointed out that the applicant and representatives have delayed the project by resubmission of different plans and information during the course of the summer. Mr. Scarano disagrees and states they've met every dead line and what Mr. Carey is referring to is to a plan amendment submitted at the last meeting. Mr. Carey refers to the deed reference which was submitted that week, the plan submitted is one lot and the deed reference shows two lots. The two lots are owned by the applicant but no lot lines are shown on the plan. Mr. Scarano states that there is no requirement to show lot lines on a plan, showing a proposal for 2 units. It will go in as a subdivision once the subdivision is completed will create two lots under a subdivision plan and will get recorded to create two lots. There is an ANR plan from 1999 on record which was approved by Danvers Planning Board that will be a basis for subdivision to come into the Planning Board which will show the two lots on the new subdivision plan. The applicant is asking for a waiver on construction of cul de sac from the Planning Board.



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Mr. Splaine states that Lot 2 is not degraded and as such the project is too close. Mr. Scarano states that documents were supplied regarding this issue. Mr. Splaine spoke with DEP and they too feel that Lot 2 is predominantly not degraded. Mr. Goddard with Goddard Consulting states that it was previously developed according to River Front standards. Mr. Splaine indicates that the lawn does not meet the definition of degraded, and even if degraded underneath there is topsoil and lawn over it which is not compliant. He mentions that the area requires restoration and mitigation. Mr. Cary mentions that there is a loss of Riverfront Area and that 10.58 (5)(C) clearly states not to go closer than the existing structure. Applicant wants to come in under the exceptions.

Mr. Cary indicates they are adding much more degraded area, not improving the river front area. This site already has tons of habitat, includes black cherries, choke cherries, black locust, deer, birds. During all site visits this was a very serene site. Mr. Scarano states that according to compliance and stand point of plans, not losing river front.

Mr. Cary states that the applicant and representatives are to provide an alternative analysis within the regulations prior to all of the amendments. The question is asked, how it is beneficial to the river. Renee McDonough of Goddard Consulting states that all of the plantings will be beneficial to the river. However Mr. Splaine mentioned that DEP's comments indicates that all of the plantings are not salt tolerant. Mr. Cary points that it is healthy as is and that they are in violation according to 10.58 5C. The Commission doesn't feel that they are making it better by building closer than allowed by an exception that doesn't improve the area and they are trying to get two building within that lot.

Michael Juliano of Eaglebrook Engineering, Danvers MA submitted to the Commission the definition of degraded area which is impervious area, lack of topsoil. Definition of previously developed area contains areas degraded prior to 1996. Difference between degraded and previously developed. Previously developed is grandfathered protection under regulations for any work done prior to August 7, 1996. Any work done after that, example if there was a driveway extension in the year 2000 that would be degraded but not previously developed. Undegraded areas may be comprised of natural vegetation or landscape areas or lawn. One area could be considered undegraded which is not defined in the wetlands protection. Could also be considered disturbed but that's not defined in the act itself. It's certainly not previously developed. As far as redevelopment on Mr. Juliano's coversheet, it shows chart of degraded area on the property. In the inner riparian zone from 0 to 100 feet under the existing condition is zero degraded area. Under the proposal there is 1475 square feet of degraded area that does not meet the requirement of redevelopment. That would meet the requirement 10.58 (4) not 10.58 (5), 10.58 (5) is the redevelop portion. The DEP submitted a letter dated November 3, 2015. Spoke to Heidi Davis, DEP Review Agent. It appears that Lot 2 is predominately not degraded within the meaning of 10.58 (5) and therefore needs to meet the performance standards of 10.58 (4C & D). Lot 2 does not come into the protection of 10.58 (5), its new development. DEP and Mr. Juliano are in disagreement with the 100 year flood plain. The applicant didn't submit anything to determine high water mark and without calculations a decision can't be made. Commission could deny because not defined.

Jim, an abutter, feels that the numbers are skewed on degraded and undegraded. He also confirmed that at the last meeting the board took a vote to continue the Public Hearing.

Mr. Scarano objected to continuing meeting but Mr. Splaine stated there was still information that needed to be submitted.

MOTION: Mr. Cary makes a motion to close the public hearing on Town of Danvers Wetland Bylaw;



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Mr. Waldman seconded; all in favor. Mr. Cary makes a motion to close public hearing on Wetlands Protection Act, Mr. Splaine seconded, all in favor

Mr. Splaine makes a motion for a short recess; all in favor

Mr. Cary makes motion to open the meeting; Mr. Splaine seconded, all in favor

MOTION: Mr. Splaine makes a motion under Town of Danvers Wetland ByLaw and the Wetlands Protection Act to deny application for redevelopment of 17 Florence Street; DEP File No. 14-1258 because mitigation does not overcome the presumption of no building within the 100 foot riparian zone and mitigation does not sufficiently balancing that, Mr. Cary seconded; all in favor.

6. ANRAD

- **309 & 309R Locust Street, DEP File No. 14-12__**

Bill Manuel, Wetlands & Land Management represented the applicant. The objective is verify the wetland boundary shown on the plan and secondly a stream that enters the site from under Locust Street and exits at the bike path. Have photographs of stream in the dry condition and conducted stream stat calculations that support the regulatory presumption that the stream would be intermit and no river front. The stream comes through water shed to the West, comes to channel at the bottom of the hill, crosses under culvert under Locust Street and once it goes into the site and off into the wetlands. Collectively 309 & 309R are about 9 acres. The old railroad grade, the bike path, runs along the rear of the property. There is a stream that enters the site and with the stream is associated wetlands. Elevation increases to 90 and drops to 55. Wetland boundary was distinct. With respect to the stream, no stream from farm pond to water shed. Stream calculation, water shed only 3/10th of a square mile. Residual flow was only 0.0007. Stream flow from water shed up is intermittent. Photographs show a dry stream. Asking Commission to walk the wetland boundary and verify flags review information submitted and very intermittent. Site visit scheduled for November 21, 2015 at 8:30am.

MOTION: Mr. Splaine makes a motion to continue to December 10, 2015; Mr. Waldman seconded; all in favor

7. Public Hearing

- **17 Cherry Hill Drive; DEP File No. 14-12__**

Proposed reconstruction of sidewalks and storm water management structures. Mary Rimmer of Rimmer Environmental Consulting, LLC represented the applicant. The project is two-fold, one is to improve the current draining conditions. Currently the grassy area between the storm water management facility and parking lot is damaged due to ponding of water; and to rebuild and extend the sidewalk along the parking lot. There will be loss of pervious. There will be a new catch basin and infiltration trench, and 125 feet of new sidewalk. In order to mitigate, will be able to collect and treat storm water. Trenches will occur within no mow lawn areas. Greg Merrill of EDM Millipore, the project manager, states that the sidewalk is the driving factor, no way to get to their vehicles without walking within the driving area. Thad Berry of ASB Design Group mentions that placing the



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catch basins in order to eliminate the ponding of water. The Commission scheduled a site visit at 8:00am on Saturday November 21, 2015

8. Certificate of Compliance

- **19 Walnut Street; DEP File No. 14-514**

Bill Manual of Wetland & Land Management represented the applicant, Mr. Murdock. Patio is in deviation. Was asked to review the situation and if there were any impacts to the wetlands areas. Everything is filled with back gravel which is a pervious feature. The block wall and stairs are slightly outside of the approved area. Entire area is stabilized, grass growing everywhere. Resource areas are salt marsh, with land subject to coastal land flowage in which work did not encroach into that area. There is coastal bank or meandering line across the lawn, defined by DEP policy, steeper than 10 to 1 but not 4 to 1, no work encroached on. 30 to 50 feet above the salt line. River front area, there was old farm house, paved patio and wide expansive lawn which haven't changed since original project. No river front impact. Conclusion on this is if it weren't for regulatory lines on paper, doesn't look any different. The Commission pointed out that patio encroached 8 more feet than approved. Mr. Manual states that extended onto lawn area, pervious surface so run off characteristic and no flow impacts. The waiver was granted originally due to the site conditions. Mr. Waldman feels that even though wrong to remedy would be worse.

Pete Clement, Town Meeting Member of Precinct 3. Attended previous meetings and no disturb area was not to be touched. Feels that this happening more and more frequently and then rectify later. No is no.

MOTION: Mr. Waldman makes a motion to issue a certificate of compliance, Mr. Splaine seconded, 2-1 vote

Adjournment

9. Minutes – October 22, 2015 - None

10. New Business - None

11. Staff Updates - None

12. Violations/Enforcement Orders - none

Respectfully submitted,

Alicia Linehan
Conservation Commission Secretary